

ENVIRONMENTAL QUALITY

CHAPTER 20

MAJOR FACILITY SITING

Sub-Chapter 6

Waivers

Rule	17.20.601	Waiver of Provisions of Certification Proceedings
	17.20.602	Notification of Request for Waiver
	17.20.603	Contents of Notice of Request for Waiver Pursuant to 75-20-304(1), MCA
	17.20.604	Contents of Notice of Request for Waiver Pursuant to 75-20-304(2), MCA
	17.20.605	Contents of Notice of Request for Waiver of Requirements Relating to Consideration of Alternative Sites Pursuant to 75-20-304(3), MCA
	17.20.606	Department Action on Request for Waiver
	17.20.607	Content of an Application Following Receipt of Waiver Pursuant to 75-20-304(3), MCA

Sub-Chapter 6

Waivers

17.20.601 WAIVER OF PROVISIONS OF CERTIFICATION PROCEEDINGS (1) An applicant may request a waiver of any portions of the Act, as provided for in 75-20-304, MCA. (History: 75-20-105, MCA; IMP, 75-20-304, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863.)

17.20.602 NOTIFICATION OF REQUEST FOR WAIVER (1) The applicant shall submit a written notice of request for a waiver to the department, by certified mail or personal service. The notice must be accompanied by an affidavit of service showing that copies of the notice have been served on the department, and that public notice of the request for waiver has been given. Public notice shall be given to persons residing within the area in which any portion of the facility would be located if the waiver is granted. Notice shall be given by publication of a display ad containing a summary description of the facility and a summary of the contents of the request for waiver, once in each of three consecutive weeks in newspapers of general circulation in that area. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-304, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

17.20.603 CONTENTS OF NOTICE OF REQUEST FOR WAIVER PURSUANT TO 75-20-304(1), MCA (1) For a waiver of provisions described in 75-20-304(1), MCA, the notice of request for waiver must contain the following information:

(a) an explanation of the need or demand for the proposed facility as described in subchapter 9, including a demonstration of the immediate and urgent need for the facility and nature of the consequences that would follow from a failure to obtain a waiver;

(b) a description of alternatives to the proposed facility which were considered and an explanation of the reasons for selecting the proposed facility;

(c) a description of the site for a non-linear facility or proposed location for the proposed linear facility, alternative sites or locations which were considered, an explanation of the reasons for selecting the proposed site or location, and a description of the significant environmental advantages and disadvantages of the proposed and alternate locations;

(d) a description of the circumstances which prevented the applicant from determining that a need for the proposed facility existed sufficiently in advance to comply with the requirements of the Act; and

(e) a listing of the provisions of the Act and this chapter for which the waiver is requested. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-304, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

17.20.604 CONTENTS OF NOTICE OF REQUEST FOR WAIVER PURSUANT TO 75-20-304(2), MCA For a waiver to replace or relocate a facility or associated facility that has been damaged or destroyed as described in 75-20-304(2), MCA, the notice of request for waiver must contain the following information. This rule does not, however, apply to emergency repairs to a facility or associated facility.

(1) a description of the event which caused the damage to or destruction of the facility or associated facility;

(2) a description of the extent of damage or destruction;

(3) a description of the effect on customers;

(4) an explanation of proposed actions to replace, repair or relocate the damaged or destroyed facility or associated facility; and

(5) a listing of the provisions of the Act and this chapter for which the waiver is requested. (History: 75-20-105, MCA; IMP, 75-20-304(2), MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863.)

17.20.605 CONTENTS OF NOTICE OF REQUEST FOR WAIVER OF REQUIREMENTS RELATING TO CONSIDERATION OF ALTERNATIVE SITES PURSUANT TO 75-20-304(3), MCA For a waiver of provisions described in 75-20-304(3), MCA, the request for waiver must contain information satisfying 75-20-304(3)(d), MCA, which must include an analysis indicating a net positive effect on the county economy. The analysis must include a discussion, with supporting data, of the size of the population influx resulting from direct and indirect employment associated with facility construction and operation, and the cost of providing services to the increased population. The discussion must include the facility's construction period and a portion of the facility's operational period adequate to address the following:

(1) the county's capability to supply construction and operational labor to the proposed facility, supported by data on the existing labor force, the supply of skilled labor within the county to meet the job requirements of the facility, and present and projected unemployment rates;

(2) effects on local businesses of the increased income resulting from the facility's payroll;

(3) a fiscal analysis comparing increased tax revenue resulting from the facility with increased local expenditures necessitated by the population influx associated with the project, including the relative timing of expected expenditure requirements compared to expected tax increases, as determined by documented consultation with appropriate local government officials; and

(4) economic impacts on residents resulting from changes in ambient environmental factors caused by the proposed facility. (History: 75-20-105, MCA; IMP, 75-20-304(3), MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863.)

17.20.606 DEPARTMENT ACTION ON REQUEST FOR WAIVER

(1) Within 90 days after receipt of the information required by ARM 17.20.603 or 17.20.605, the department shall give notice and set a date for a hearing.

(2) The department shall give notice and set a date for a hearing and render a decision as soon as practicable after receipt of the information required by ARM 17.20.604.

(a) This rule does not apply to emergency repairs of a facility or associated facility. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-304, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

17.20.607 CONTENT OF AN APPLICATION FOLLOWING RECEIPT OF WAIVER PURSUANT TO 75-20-304(3), MCA

(1) An application for a facility which has been granted a waiver pursuant to 75-20-304(3), MCA, must contain applicable information required by ARM 17.20.1418 for the preferred site only.

(2) Information requirements for linear associated facilities are not affected by the waiver and must be addressed as applicable unless the applicant can demonstrate that less detailed information meets the requirements of subchapter 14, based on considerations of size or length of the linear associated facilities, the homogeneity of the geographic area that would be traversed by these facilities, or that impacts are not likely to occur. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-211, 75-20-304, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

